

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:15 CV 182

MERCEDES KAMARIA POWELL)	
MCAFEE,)	
)	
Plaintiff)	
)	<u>ORDER</u>
v)	
)	
HOWARD BAER, INC., and KEITH)	
LOVELL CAMPBELL,)	
)	
Defendants.)	

THIS MATTER is before the undersigned pursuant to Plaintiff's Motion For Discovery Sanctions (#21). LCvR 7.1 (A), (B) and (C) provides as follows:

LCvR 7.1

(A) Motions in Writing. Unless made during a hearing or trial, all motions must be put in writing and filed as provided by LCvR 5.2(C) and shall state with particularity the grounds of the motions and shall set forth the relief or Order sought. Motions will ordinarily be ruled upon without oral argument, unless otherwise ordered by the Court. LCvR 7.1(B) reads as follows:

(B) Requirement of Consultation. Any motions other than for dismissal, summary judgment, or default judgment shall show that counsel have conferred or attempted to confer and have attempted in good faith to resolve areas of disagreement and set forth which issues remain unresolved. The requirement of consultation also applied to motions for extension of time and to motions for continuance of a trial or other proceeding. Consultation is not required where the moving party is represented and the non-moving party is unrepresented, or

where the motion is for an extension of time to file a responsive pleading to complaint, counterclaim, crossclaim, or any other initial petition for relief.

(C) Requirement of Briefs. Briefs shall be filed contemporaneously with the motion, except no brief is required in support of timely motions for extension of time, continuances, admission *pro hac vice*, or early discovery. Exhibits in support of a brief shall be attached as appendices as specified in the Administrative Procedures. Factual contentions shall be supported as specifically as possible by citation to exhibit number and page.

In regard to the filing of the Plaintiff, Plaintiff's counsel states he has attempted to communicate with counsel for Defendants in an attempt to resolve the dispute but further states, "in fairness to defense counsel, this attempt at communication may have not provided adequate time for counsel to communicate with his client." Therefore, the requirement of consultation has not been met. Further, Plaintiff has not filed a brief as required by LCvR 7.1 (C). A review of the motion does not show a reference to any case or a citation to any specific Rule of Civil Procedure pursuant to which the Plaintiff could move for sanctions.

A further concern to the Court is that discovery is to be completed in this matter by October 1, 2016. Counsel for Plaintiff and counsel for the Defendants should review the Pretrial Order and Case Management Plan in this matter. All motions regarding discovery have to be filed and ruled upon before the discovery due date of October 1, 2016.

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff's Motion For Discovery Sanctions (#21) is **DENIED** without prejudice for the reasons set forth above. Plaintiff is invited to file a new motion and brief that complies with the Local Rules.

Signed: September 1, 2016

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

